

REMARKS

The Official Action of October 6, 2004, has been carefully reviewed. In view of the *Ex parte Quayle* nature of the Office Action, the PTO has closed further prosecution on the merits and has indicated that applicant's claims are allowed, i.e. such claims define novel and unobvious subject matter under §§102 and 103 and meet all the other statutory requirements including those of §112.

Acknowledgement by the PTO of the receipt of applicant's papers filed under §119 is noted.

Only one informality has been raised, such informality being related to the stated non-compliance with Rule 83(a) due to a feature recited in the dependent portion of claim 5 not having been illustrated. Accordingly, the PTO has objected to applicant's drawings.

Instead of submitting amended drawings, applicant chooses instead to delete claim 5 without prejudice. No dedication, disclaimer, abandonment, waiver, forfeiture, renunciation, concession, surrender or estoppel is created by such deletion as the subject matter of claim 5 is entirely encompassed by both claims 3 and 1, upon which claim 5 depended.

In view of the deletion of claim 5, no amendment in applicant's drawings should be necessary. Accordingly, the requirement for corrected drawings is therefore respectfully traversed. Applicant's drawings meet all the formal requirements of the PTO.

For the record, applicant further respectfully notes that the examiner does have considerable discretion with respect to compliance with 37 CFR 1.83(a), bearing in mind that some patents issue without any drawings whatsoever, so clearly it is not necessary that every feature claimed be illustrated. Thus, 37 CFR 1.81(a) makes clear that drawings are required only "where necessary for the understanding of the subject matter sought to be patented...." Applicant respectfully submits that the subject matter in the dependent portion of claim 5, even if claim 5 were still pending, would not need to be illustrated, as such subject matter is clearly understandable without the need for illustration.

Applicant accordingly respectfully requests withdrawal of the requirement for a new drawing.

As indicated above, applicant's claims have all been allowed, whereby applicant understands that such claims meet all the requirements for patentability including those of §§101, 102, 103 and 112.

The prior art documents made of record and not relied upon have been noted, along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their application against any of applicant's claims.

Applicant respectfully requests favorable consideration and early formal allowance.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By



Sheridan Neimark
Registration No. 20,520

SN:jaa
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
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